REMARKS

Claims 1-40 are pending in the present application. New claims 35-40 have been added in view of the following election. Support for these claims can be found, *inter alia*, in original claims 32-34; on page 4 line 25; and on page 6 lines 6-14 of the specification. Accordingly, no new matter has been introduced into the application by the above-amendment.

In the Office Letter dated July 29, 2002, the Examiner in charge of the above-identified patent application required election to one of the following groups of claims:

I. Claims 1-10, drawn to a tablet composition of amlodipine free base;

II. Claims 11, 28 and 13 in part, drawn to amlodipine of form II and the process of making it;

III. Claim 12, drawn to a method of treating a disease using amlodipine;

IV. Claims 13-27 and 29, drawn to a process of making amlodipine free base;

V. Claims 30 and 31, drawn to a purification method of amlodipine free base; or

VI. Claims 32-34, drawn to a population of particulate amlodipine free base.

The Examiner indicated that the inventions of Groups I-VI are unrelated and thus independent. In particular, the Examiner asserts that the inventions are unrelated because they have different functions. The Examiner further argues that restriction is needful in the present application because the inventions (1) acquired a separate status in the art as shown by their different classification, (2) have acquired a separate status in the art because of their recognized

divergent subject matter, and (3) the search required for Group I is not required for Group II-VI. This requirement is respectfully traversed.

Contrary to the Examiner's assertions, the subject matter of the present claims are related to one another. As set forth in the form paragraphs cited by the Examiner, inventions are unrelated only if they are "not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01)." In the present case, claims 7 and 9 of the Examiner's Group I specifically recite the presence of amlodipine free base form II of the Examiner's Group II. Thus, Group II (see claim 11) which is drawn to amlodipine of form II is not unrelated or independent of Group I because the subject matter of Group II can be used in the invention of Group I.

The same is true of the remaining Groups. For example, the amlodipine used in the method of claim 12 (Group III) can be form I or form II and could be administered in the form of the tablet of Group I. Claim 13 (Group IV) is directed to methods of making amlodipine which includes making amlodipine of form II as seen in dependent claim 28. The fact that claim 28 (listed in Group II) depends on claim 13 (Group IV) undeniably shows that these two groups are related and are not independent for purposes of restriction practice under 35 U.S.C. 121. Group V is directed to purifying amlodipine, which amlodipine could be used in making the tablet of Group I and could have been made by the process of Group IV. Clearly these Groups are related. Finally, Group VI can be used in the tablet of Group I. In fact, new claims 35-40 have been added to make this point more clear.

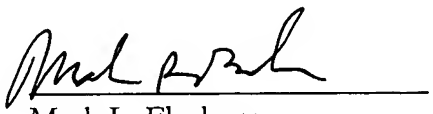
The Examiner's characterization of the claims of Groups I-VI as being unrelated is clearly in error. Because the basic factual determination of the relationship between the claims is wrong, the Examiner's corresponding rationale and conclusions for requiring restriction are likewise errant. In the absence of a proper basis for requiring restriction being present on the record, withdrawal of the requirement is required. Reconsideration, or at least reformation, of this improper restriction requirement is requested.

Nonetheless, in order to be fully responsive under 37 C.F.R. §1.143, Applicants hereby elect, with traverse as noted above, Group I, claims 1-10 and now newly added claims 35-40. The Examiner is encouraged to reconsider and withdraw this requirement.

Should the Examiner have any questions regarding this application, or wish to discuss the restriction requirement, she is encouraged to contact Applicants' representative, Mark R. Buscher, at telephone number 703 502 9440.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP



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